

Exhibit 3

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

ROGER PARKER on his own
behalf and on behalf of
all others similarly
situated,

CIVIL ACTION FILE

Plaintiffs, NO. 5:22-cv-00268-TES

vs.

PERDUE FOODS, LLC,

Defendants.

VIDEO 30(b)(6) DEPOSITION OF
PERDUE FOODS, LLC
MICHAEL KEITH LEVINGOOD

November 14, 2023
9:02 a.m.

Suite 4800
191 Peachtree Street, N.E.
Atlanta, Georgia

Tracy A. Warner, B-2168, RPR

David Ramirez, Videographer

1 Q. So let's talk about that. You said east
2 coast farms, you use this agreement with all growers
3 for the east coast farms?

4 A. Yes.

5 Q. And then you listed, I think, two other
6 areas. Could you say those one more time?

7 A. Yeah, Draper Valley Farms. It's in
8 Washington State.

9 Q. And the other?

10 A. Petaluma Poultry. It's in California.

11 Q. So aside from Draper Valley Farms and
12 Peddelton Poultry?

13 A. Petaluma Poultry.

14 Q. -- Petaluma Poultry, Perdue uses this
15 agreement with all growers outside of those two
16 contacts?

17 A. This, along with other documents.

18 Q. Right. But this is one of the documents
19 that it uses with all growers outside Draper Valley
20 and Petaluma Poultry?

21 A. Yes.

22 Q. You said east coast farms. So that's
23 everywhere else outside of, I think, Washington and
24 California, those two --

25 A. The majority of our farms are all on the

1 east coast. When I say "east coast," east of the
2 Mississippi. Does that help.

3 Q. That's helpful. I just wanted to make
4 sure I was understanding the, kind of, universe of
5 what we're talking about.

6 And how many farmers are in Draper Valley?

7 A. I'm going to guess, estimate, less than
8 20, between 15 and 20.

9 Q. And Petaluma Poultry?

10 MS. SANTEN: Real fast, I'm just going to
11 note you can respond in your individual
12 capacity.

13 I think this level of detail goes beyond
14 the scope of the notice, but he can certainly
15 provide a response in his individual capacity.

16 MR. KLORFEIN: Well, Maggie, I think that
17 if you look back to the notice, one of the
18 topics is "standard or exemplar contracts used
19 with broiler chicken growers."

20 And then 4 is: the general types of
21 individualized variations that might affect the
22 ways in which generally-applicable policies
23 growers may be implemented.

24 So if I think -- you know, I think I'm
25 entitled to understand which growers use this

1 can certainly provide -- he can certainly
2 provide his best guesstimate.

3 MR. KLORFEIN: Your objection is noted.

4 BY MR. KLORFEIN:

5 Q. Same question as to Pendulum Poultry
6 [sic], the number of growers operating for that.

7 A. It's three or less.

8 Q. And the number of growers that would be
9 subject to this agreement?

10 A. It's probably -- I don't know the exact
11 number because it changes. It could be 1300.

12 Q. So turning to the agreement -- and
13 throughout the day, I'm probably going to be
14 referring to what I refer to as Bates numbers. If
15 you look at the bottom left-hand corner of the
16 screen, that first page, this document begins at
17 Perdue 001627.

18 Do you see that?

19 A. Yes.

20 Q. And for the record, it continues through
21 1639. But sticking on page Bates 1627, at the very
22 bottom of that screen, it says "June 2016."

23 THE WITNESS: Can you make this bigger?

24 THE VIDEOGRAPHER: There should be an
25 option there --

1 MS. SANTEN: If you go to the -- see the
2 100 percent and you click the down arrow there,
3 you should be able to maximize it that way.

4 THE VIDEOGRAPHER: I can go off the
5 record.

6 THE WITNESS: It's just really small. If
7 you want me to read it, I need to be able to see
8 it.

9 THE COURT REPORTER: Yeah, you just press
10 the little --

11 THE WITNESS: Okay. Thank you.

12 So what was your question again?

13 BY MR. KLORFEIN:

14 Q. Sure. First, do you see that June 2016 at
15 the very bottom?

16 A. Yes.

17 Q. Was this -- is this the agreement that was
18 implemented beginning in June 2016?

19 A. Yes.

20 Q. And is it still the operating agreement?

21 A. I believe so.

22 Q. And from June 2016 through the present,
23 has this remained the operating agreement that Perdue
24 uses with the growers on the east coast?

25 A. It's the attachments that change all the

1 time.

2 Q. And I appreciate that answer, and I would
3 like to talk about those attachments. But before we
4 get to the attachments, this agreement itself, which
5 ranges 1627 -- and please take a look through --

6 A. It generally -- we don't change this very
7 often.

8 Q. And I appreciate that answer. I just --
9 can I get my question out first? I know I paused.
10 But 1627 through 1639, before you get to the
11 attachments, this agreement is the same agreement
12 that y'all have been using -- that Perdue has been
13 using from June 2016 to the present?

14 A. To the best of my knowledge, yes.

15 Q. I appreciate that. But as Perdue's
16 corporate representative regarding this contract, is
17 this the agreement that Perdue has used from June
18 2016 to the present?

19 A. Yes.

20 Q. And you referenced attachments changing
21 frequently. How frequently would attachments change?

22 A. They can change all the time. They're the
23 pay schedules, and there's multiple pay schedules for
24 every location based on multiple factors: bird
25 weight, bird age. So they're all tied to the plant,

1 within 2019, like an earlier agreement that was
2 still --

3 A. Say that again.

4 Q. Sure. Are there any earlier agreements
5 with growers --

6 A. Earlier when?

7 Q. Pre-2016.

8 A. I would need to see them.

9 Q. Let me just finish my question.

10 Are there any earlier agreements pre-2016
11 that would have still been enforced in 2019?

12 A. No. This is the new agreement.

13 Q. Right. But did all growers re-sign in
14 June 2016 if they had an earlier agreement?

15 A. Yes.

16 Q. And this agreement, the one that's in
17 front of you, the June 2016, the present agreement,
18 growers who receive a variety of different types of
19 flocks would still be operating under this agreement?

20 MS. SANTEN: Objection, vague.

21 THE WITNESS: Everybody signs this
22 agreement, okay? And then everybody signs an
23 attachment which is part of this agreement on
24 what they're going to get paid. So what changes
25 is the payment agreements can change all the

1 time. This is still in place since 2016.

2 BY MR. KLORFEIN:

3 Q. Got it. So large broilers, small
4 broilers, they're all under that agreement, plus the
5 attachment?

6 A. All 1300 farmers are under this agreement.
7 (Plaintiffs' Exhibit 3 was marked for
8 identification.)

9 BY MR. KLORFEIN:

10 Q. It will take a moment to get on your
11 screen, but if you wouldn't mind refreshing, I have
12 marked Plaintiffs' Exhibit 3, which is Perdue 3458
13 through 3657. Do you see it on your screen?

14 A. No. I see the document, but I don't see
15 that number -- oh --

16 Q. The first page does not have the Bates
17 stamp on it, but if you turn to the second page --

18 A. You didn't -- you didn't ask that.

19 MS. SANTEN: Counsel, this document, you
20 have to scroll left and right and up and down to
21 see. I'll leave to it the witness, but it's
22 difficult for me to follow electronically.
23 Could we possibly get paper copies of this one
24 to review?

25 MR. KLORFEIN: If you want to go off the

1 BY MR. KLORFEIN:

2 Q. We've turned back to Plaintiff's
3 Exhibit 3. We now have a paper copy right in front
4 of you, if you wouldn't mind taking a moment to
5 review it.

6 But, again, my first question is: Do you
7 recognize the document?

8 A. Yes.

9 Q. What is it?

10 A. It's the Poultry Care Process Verified
11 Program. Want me to explain?

12 Q. That would be very helpful, please.

13 THE VIDEOGRAPHER: One moment, please.
14 Let me go off the record.

15 The time is 10:13 a.m. We are off video
16 record.

17 (Off-the-record discussion.)

18 THE VIDEOGRAPHER: The time is 10:14 a.m.
19 We are back on video record.

20 BY MR. KLORFEIN:

21 Q. Right before we went off the record, I
22 believe you were about to explain what the Poultry
23 Care Process Verified Program was.

24 A. Okay. So the process verified program is
25 actually a USDA program. So the best way I always

1 explain it to people is if you go into a restaurant
2 and you see the health score in a restaurant, that's
3 USDA -- it's called AMS also -- they actually perform
4 those audits in a restaurant and give them a health
5 score, okay?

6 So those same auditors, that department,
7 if you give them an audit instrument and you say,
8 here's our -- for this one, our poultry care program,
9 they will then come and audit it. And on their
10 website, they'll go, it's a process verified program
11 audited by USDA. So this is a USDA third-party
12 audited animal care program for Perdue.

13 Q. And rather than repeatedly referring to
14 the program, can I refer to it as PVP? Is that how
15 you --

16 A. That's how we actually say it, so you're
17 catching on.

18 Q. So this PVP, you said you submit to -- I
19 think you said USDA?

20 A. Yes.

21 Q. And then they audit this PVP?

22 A. Yes.

23 Q. And sign it off and say, this is
24 audited -- and you can then say it's audited?

25 A. Yes. It's also PAACO-verified, which

1 means that's a group that will -- it's not poultry.
2 I forget the actual name of it, but you can look at
3 it. It's PAACO. So they certify audits to mean it
4 actually meets industry animal care standards. And
5 this was the very first one. This is the very first
6 broiler process -- this was the very first poultry
7 care program that PAACO certified.

8 Q. Gotcha. And on that first page, it says
9 "Version 10/9/23"?

10 A. Yes.

11 Q. So previous versions were issued; is that
12 accurate?

13 A. Yes. If you turn to the first page, we
14 list all the times that there was adjustments to it.

15 Q. That's on -- beginning Bates 3459?

16 A. Yes, sir. And it goes all the way back
17 to -- you can see that the -- if you go to
18 Bates 3460, the very first one was 3/1/11. So that
19 was -- since then, all those line items are
20 adjustments to the program.

21 Q. Understood. So the PVP has been in place
22 in some form or fashion since March 1, 2011?

23 A. Yes, sir.

24 Q. And all the changes to the PVP are
25 memorialized in these notations?

1 A. Yes.

2 Q. But I think you said only the most recent
3 version of the PVP has been signed off on by that
4 organization?

5 A. No. The whole thing has been signed off.
6 It gets signed off every year. So they look at it
7 every year. So when it was first signed off every
8 year, PAACO keeps saying, yep, they get a check box,
9 and USDA audit uses this instrument to audit us.

10 Q. Gotcha. And when I say "you are
11 submitting to USDA," I'm referring to Perdue. Can we
12 have that understanding?

13 A. Yes, sir.

14 Q. And although the USDA certifies this is
15 audited, Perdue is the one drafting the words in this
16 PVP?

17 A. Yes, plus the NCC Broiler Welfare
18 Guidelines are our base. So we use the National
19 Chicken Council Broiler Welfare Guidelines as a base.
20 And then an example would be lighting. And the
21 lighting, we do a little more than the NCC
22 guidelines. So this program is a little stricter on
23 lighting than, say, NCC. But the base of this
24 program is National Chicken Council Broiler Welfare
25 Guidelines. And they change every couple of years,

1 so some of the changes would be because NCC changed
2 their requirements.

3 Q. Understood. So the NCC would maybe set a
4 floor for certain guidelines?

5 A. Absolutely.

6 Q. And Perdue would say, we want to be a
7 little bit higher than that, so our guidelines are
8 above that?

9 A. Yes.

10 Q. If you turn to Bates 3468.

11 A. (Witness complies.)

12 Q. See the table of contents on the far
13 left-hand side, and below that there are a list of
14 locations with alphanumeric numbers to the right of
15 them?

16 A. Yes.

17 Q. What are those locations?

18 A. They are harvest plants.

19 Q. And does the PVP apply to all the growers
20 that feed into these harvest plants?

21 A. Yes.

22 Q. And are these all of the harvest plants
23 that Perdue maintains?

24 A. For broilers, yes.

25 Q. And for other chicks?

1 A. Turkeys.

2 Q. Thank you for that clarification.

3 So with chicken or boilers, this is all
4 harvesting plants. So the PVP applies to all
5 broilers?

6 A. Yes.

7 Q. All growers who maintain broilers?

8 A. Yes.

9 Q. Going back to that edit on the second page
10 of the document, I believe it's Bates 3459, that
11 catalog of revisions.

12 A. Okay.

13 Q. And then 3460, which is the page that
14 follows that, there's a reviser listed on the
15 right-hand corner, and it has David Shapiro?

16 A. Yes.

17 Q. Who is David Shapiro?

18 A. He was our company veterinarian. He's no
19 longer with us.

20 Q. But if you scroll down to Bates 3463 and
21 then 64 -- other direction -- it was David Shapiro
22 going downwards until it hits Rita Harkless?

23 A. Correct.

24 Q. She's the veterinarian that took over?

25 A. She's not a veterinarian, but she is the

1 the farmers. They could witness somebody coming on
2 their farm for abuse.

3 We want them to understand what does abuse
4 mean. We explain that to them. We don't want them
5 to abuse it, and most likely, they're not going to
6 abuse it because it's their income. So why would
7 they abuse the birds if it's their income? But
8 there's other people coming on their farm, and they
9 should be the ones to let us know if they see
10 somebody because, guess what, they're there all the
11 time; we're not. It's their farm, their property.
12 We don't know who's coming on the farm. So that's
13 why it's a reminder. It's educational.

14 Q. And a couple of things on that answer that
15 I want to follow up on. What do you -- what does
16 Perdue say a flock advisor's role is?

17 A. A flock advisor's role, they're the
18 liaison to the company for that farmer. They are
19 assigned X number of houses, X number of farmers. So
20 they meet with them all the time and -- not all the
21 time. Generally, they're scheduled once a week.
22 About an hour a week is all they're on the farm.

23 And they're there to -- they see a lot
24 more chickens than a farmer does, so they can answer
25 the farmer's questions. If a farmer is concerned

1 about this flock's health help, they can help them
2 with the health. If this flocker -- if this farmer
3 is concerned about -- really struggling with
4 ventilation, it's really cold out, it's wet and damp,
5 I'm really struggling, the flock advisor can provide
6 knowledge of, hey, well, I have some suggestions to
7 help.

8 So a flock advisor provides suggestions to
9 help the farmer better raise the birds to make them
10 more money.

11 Q. And a flock advisor inspects the houses,
12 right?

13 MS. SANTEN: Objection, vague.

14 THE WITNESS: The flock advisor has
15 certain things they look at that would maybe
16 help them with their performance. That's all.
17 The farmers own the houses; we don't.

18 BY MR. KLORFEIN:

19 Q. Understood. But the flock advisor will
20 look at the grower's houses, right?

21 A. Not the houses. Generally, they're going
22 to look at the birds.

23 Q. Okay. The flock advisor will inspect the
24 birds?

25 A. The flock advisor will observe the birds

1 (Plaintiffs' Exhibit 12 was marked for
2 identification.)

3 BY MR. KLORFEIN:

4 Q. All right. Let me introduce -- there's
5 not going to be a stamp on this because this is a
6 PowerPoint, and for some reason, it does not allow me
7 to add Plaintiffs' Exhibit 12 to this document.

8 A. So refresh? You want me to refresh?

9 Q. Yes, please.

10 A. So this is 12. You got it.

11 Q. Let me know when you've got it.

12 A. I've got it.

13 Q. Do you recognize this document?

14 A. Yes.

15 Q. What is it?

16 A. It's an educational presentation to
17 explain our settlement process.

18 Q. Does this apply to all growers?

19 A. This would apply to all growers that are
20 on a competitive contract. It would also apply to
21 growers that are on a flat-base contract, so, yes.

22 Q. So it applies to all growers?

23 A. Yes. I just had to think through the
24 process, if that's okay.

25 Q. Totally fair. I just wanted to make sure

1 website. About 30 percent won't give us their e-mail
2 address because it's their individual e-mail address,
3 it's their individual farm, and they don't want us to
4 have it. And we're okay with that.

5 Q. Recognizing that not all farmers view this
6 as we've just discussed, the process that it
7 describes applies to all farmers, right?

8 A. Yes. It's how we pay farmers.

9 (Plaintiffs' Exhibit 13 was marked for
10 identification.)

11 BY MR. KLORFEIN:

12 Q. All right. You should see, when you
13 refresh your browser, Plaintiffs' Exhibit 13, which
14 is Bates Perdue 1395. Let me know when you have it
15 up.

16 A. It's up.

17 Q. Do you recognize this document?

18 A. Yes.

19 Q. What is it?

20 A. It's the farm visitor log.

21 Q. And what does the farm visitor log
22 provided to do?

23 A. So if we tie some things together, we said
24 we're going to put a mailbox on every farm. So that
25 mailbox also has a sign on it that says "Biosecurity

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